

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



March 12, 1998

ALL-COUNTY INFORMATION NOTICE NO. I-17-98

TO: ALL COUNTY WELFARE DEPARTMENTS
ALL COUNTY PROBATION DEPARTMENTS
ALL COUNTY COUNSELS
ALL PUBLIC AND PRIVATE ADOPTION
AGENCIES
ALL CDSS ADOPTION DISTRICT OFFICES

REASON FOR THIS TRANSMITTAL

- ☐ State Law Change
- ☐ Federal Law or Regulation Change
- ☐ Court Order or Settlement Agreement
- ☐ Clarification Requested by One or More Counties
- ☒ Initiated by CDSS

SUBJECT: 1997 CHAPTERED LEGISLATION AFFECTING THE ADOPTIONS PROGRAM, THE OFFICE OF CHILD ABUSE PREVENTION, THE CHILD WELFARE SERVICES PROGRAM, AND THE AID TO FAMILIES WITH DEPENDENT CHILDREN-FOSTER CARE PROGRAM

This letter summarizes legislation chaptered during 1997 which affects the Adoptions Program, the Office of Child Abuse Prevention, the Child Welfare Services Program and the Aid to Families with Dependent Children-Foster Care (AFDC-FC) Program. Unless otherwise noted, the statutes listed became effective on January 1, 1998.

These summaries are for general informational purposes only. Additional All-County Letters (ACLs) or All-County Information Notices (ACINs) have been or will be issued for some of the statutes to provide more detailed descriptions of specific programmatic issues and necessary implementation activities. For ease of identification, statutes have been listed under the specific program which they impact.

ADOPTIONS PROGRAM**Assembly Bill (AB) 329 (Caldera), Chapter 510, Statutes of 1997**

This legislation adds a provision to Section 45 of the Code of Civil Procedure to assure that an appeal from a judgement freeing a dependent child of the juvenile court from parental custody and control, or a denial of a recommendation to free a minor from parental custody or control, will have precedence over all other cases in the court to which an appeal in the matter is taken.

This legislation also amends Welfare and Institutions Code (WIC) Section 252 to authorize county welfare departments to apply to the juvenile court for a rehearing of the findings of a referee on WIC Section 300 dependency proceedings within ten days of receipt of a written copy of the referee's order or findings.

AB 1544 (Committee on Human Services), Chapter 793, Statutes of 1997

This legislation implements additional components of the Governor's 1996 Adoption Initiative and includes the following changes:

- o Amends Evidence Code Section 1228.1 to provide for more extensive use of parents' or legal guardians' lack of cooperation with child welfare services as evidence against parents or legal guardians in proceedings regarding the termination of parental rights.
- o Amends Family Code (FC) Section 8614 to provide relative adoptive parents or the adopted child the option of having the name of the birth parents stated on the certificate of adoption.
- o Amends FC Section 8700 to require the California Department of Social Services (CDSS) or a licensed adoption agency to provide written notice, within five days, to the juvenile court and attorneys for all interested parties, concerning its acceptance of the relinquishment of a child who is a dependent of the juvenile court.
- o Adds FC Section 8714.7 to authorize an optional kinship adoption agreement to be drawn if it is found to be in the best interest of the child. This optional kinship adoption agreement may only be executed in an intrafamilial adoption at the time the adoption is finalized. This legislation also establishes the criteria under which a kinship adoption agreement would be permitted. Furthermore, this legislation provides a definition of those kinship adults who are the prospective adoptive parents, related to the child by either blood or affinity, or related to the child's half-sibling.
- o Amends Health and Safety Code (HSC) Sections 1502 and 1505 to expand the definition of relatives exempt from foster care licensure to include relatives of the child's half-sibling for the purpose of maintaining sibling groups together. These amendments also authorize a foster family home to provide 24-hour care for up to eight children in order to place siblings or half-siblings together into the same foster family home. Furthermore, under specified conditions, these amendments permit a foster family home to provide 24-hour care for sibling or half-sibling groups of more than eight children.
- o Amends WIC Sections 309, 319 and 361.3. These amendments provide for assessments of relatives prior to both emergency and ongoing placement of a child with relatives. In addition, the amendments require the consideration of a relative's ability to provide long-term care for a child and legal permanence if family reunification efforts fail.

- o Adds WIC Section 316.2 to provide for resolving the status of either presumed or alleged fathers of children who are the subjects of dependency proceedings. This provision requires the court to inquire into the identity and location of presumed or alleged fathers as early in the dependency proceedings as possible.
- o Amends WIC Section 361 to clarify that the birth parents have the option to voluntarily relinquish their child for adoption to the CDSS or to a licensed county adoption agency at any time during the dependency process provided the agency will accept the relinquishment.
- o Amends WIC Section 361.5 to clarify that whenever a minor is removed from a parent's or guardian's custody, the minor and the minor's birth mother and statutorily presumed father, or the minor's guardians, shall receive child welfare services. A minor's biological father who has had his paternity declared by a court of competent jurisdiction may also be ordered to receive child welfare services with the minor if the court determines the services will benefit the minor.
- o Amends WIC Section 366 and WIC Section 16501.1 to conform to federal Title IV-B funding requirements. These amendments require that dependent children placed out-of-state be reviewed to determine if the placement continues to be appropriate. These amendments also require either the California social worker or a social worker in the state where the child is placed to visit the child and submit a report to the court annually.
- o Amends WIC Sections 366.21 and 366.22 to expand the reference in the supplemental report to the court regarding the services being provided or offered to the parent to facilitate reunification with the child to include efforts made to achieve legal permanence if attempts to reunify fail. This legislation clarifies that provisions for concurrent planning services, such as placing the child with a pre-adoptive family, shall not be regarded as a failure to provide or offer reasonable reunification services.
- o Amends WIC Section 366.23 regarding the noticing requirements for a hearing pursuant to WIC Section 366.26. This amendment removes the obligation to provide notice of the aforementioned hearing to an alleged father who has denied paternity and has executed Section 1 of the Judicial Council's "Paternity-Waiver of Rights (JV-505)" form waiving notice of further hearings, and an alleged father who has relinquished the child to the CDSS or to a licensed adoption agency for adoption.
- o Amends WIC Section 366.26 to clarify that kinship adoption agreements are available for consideration in the cases of all dependents of the juvenile court who have the prospect of being adopted by a relative.
- o Amends WIC Section 366.3 to conform California law to federal statutes concerning permanency planning options. This amendment adds the return of the child to the birth parents to the list of permanency planning options to be considered.

- o Amends WIC Section 387 to establish a basis for removal of a child from a relative placement in the event the placement with a relative proves to be inappropriate pursuant to the criteria set forth in WIC Section 361.3.
- o Amends WIC Section 16501.1 to include in the description of a child welfare services case plan not only the services to assist in reunification, but also the services to be provided concurrently to achieve legal permanence should efforts at reunifying the family fail. This provision also requires the CDSS to develop standards and guidelines for a model relative placement assessment process to be utilized by the counties and incorporated into statewide training programs.

The Adoptions Branch will issue a follow-up ACIN and will process regulations to implement provisions of AB 1544.

Senate Bill (SB) 122 (Alpert), Chapter 185, Statutes of 1997

This legislation amends Penal Code (PC) Section 273 to make it a misdemeanor for any person or agency to pay, offer to pay, or receive money or anything of value for the placement for adoption or consent to adoption of a child, with exceptions for appropriate licensed agencies and individuals. This provision also states that birth parent misrepresentations in placing a child for adoption in return for money may be prosecuted as a felony if the facts warrant prosecution as a felony offense, as specified.

SB 1121 (Craven), Chapter 559, Statutes of 1997

This legislation amends FC Section 8502 to authorize a licensed marriage, family, and child counselor with a minimum of five years of experience providing professional adoption casework services while employed by a licensed California adoption agency or the CDSS, to be an adoption service provider. This legislation requires the CDSS to review the qualifications of each individual to determine his or her professional adoption casework experience. This legislation also amends FC Section 8801.5 to require that the birth parent be advised of his or her choices regarding counselors, including the right to receive counseling from the adoption service provider.

OFFICE OF CHILD ABUSE PREVENTION

AB 1033 (Frusetta), Chapter 630, Statutes of 1997

This legislation adds Article 2 (commencing with Section 18711) to Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code and affects taxpayer contributions to the State Children's Trust Fund. The legislation extends the sunset date for providing a designation on the California income tax form for a charitable contribution to the State Children's Trust Fund from January 1, 1997 to January 1, 2002.

CHILD WELFARE SERVICES PROGRAM

AB 1065 (Goldsmith), Chapter 844, Statutes of 1997

This legislation amends PC Section 11167.5 to permit the Board of Prison Terms to subpoena an employee of a county welfare department who can provide relevant evidence and reports regarding specified child abuse reports related to parole revocation proceedings pending against a parolee charged with child abuse. This legislation also amends PC sections affecting access to information in the Child Abuse Central Index. Please refer to the AFDC-FC Program summary of AB 1065 on Page 6 for more information.

SB 163 (Solis), Chapter 795, Statutes of 1997

Existing statute permits Santa Clara County to participate in a pilot project to provide intensive wraparound services to eligible children in foster care or at risk of placement. Services are funded from the state share of the nonfederal reimbursement for group home placement and are based on the average cost of rate classification levels 12 to 14, minus the cost of any concurrent out-of-home placement for these children. This legislation amends Chapter 4 (commencing with Section 18250) of Part 6 of Division 9 of WIC to allow all counties to participate in the wraparound services pilot, upon the CDSS' approval. The CDSS is currently developing standards and criteria to be used in developing a quality wraparound services program. This material and a description of the pilot will be distributed to counties in a separate letter.

SB 644 (Polanco), Chapter 842, Statutes of 1997

This legislation amends PC Section 11165.12(c) to change the term "unsubstantiated" to "inconclusive" regarding child abuse reports.

This legislation also amends PC Section 11169. Current law requires child protective services agencies to send a report to the Department of Justice (DOJ) after a report of child abuse has been actively investigated and determined to be either substantiated or inconclusive. Effective January 1, 1998, child protective services agencies, using a form approved by the DOJ, must now also simultaneously notify the known or suspected child abuser that he or she has been reported to the Child Abuse Central Index. The DOJ is currently developing a sample notification form in response to this legislation. The CDSS will transmit the sample notification form and implementation instructions to counties in a separate letter. Additionally, child protective agencies must retain child abuse investigative reports that are reported to the DOJ for the same length of time that the information is required to be maintained in the Child Abuse Central Index (generally ten years).

Finally, this legislation amends PC Section 11170 to mandate the DOJ to remove from the Child Abuse Central Index after ten years, when no subsequent reports concerning the suspected child abuser have been filed, all reports of child abuse which child protective agency investigators determined to be inconclusive.

AID TO FAMILIES WITH DEPENDENT CHILDREN - FOSTER CARE PROGRAM

AB 317 (Ortiz), Chapter 258, Statutes of 1997

This legislation expands on AB 327 (Hannigan), Chapter 453, Statutes of 1997, which created the pilot project allowing specified children living in long-term, stable, relative placements to continue receiving a federal foster care payment after guardianship is established and dependency is dismissed. This pilot project has been incorporated into the Title IV-E Child Welfare Waiver Demonstration Project which was approved by the federal Department of Health and Human Services on August 19, 1997. This legislation amends WIC Section 11465.5 to add Sacramento County to the list of counties named to participate in the pilot and provides the CDSS with the authority to approve additional counties for inclusion in the pilot.

AB 1065 (Goldsmith), Chapter 844, Statutes of 1997

This legislation amends PC Sections 11167.5 and 11170 to require the DOJ to make available to child protective services agencies, upon request, relevant information in the Child Abuse Central Index for the purpose of ensuring placement in the child's best interest.

AB 1193 (Shelley), Chapter 794, Statutes of 1997

This legislation adds WIC Section 16605 to create a statewide Kinship Support Services Program which will make available to counties grants-in-aid for the development of new, or the expansion of existing, community-based family support services for relative caregivers and the children placed in their homes who are at risk of dependency or delinquency. The legislation specifies a \$750,000 appropriation from the General Fund for the grants-in-aid program, \$75,000 for technical assistance from the Edgewood Center, and \$75,000 for state administration. There will be a follow-up ACL on implementation of this legislation.

AB 1196 (Shelley), Chapter 268, Statutes of 1997

This legislation amends WIC Sections 361.3 and 387 to require the social worker and the court to consider, when placing a child in the home of a relative, whether any individual residing in the home has a prior history of violent criminal acts or has been responsible for acts of child abuse or neglect. The ability of the relative to facilitate implementation of the case plan must also be considered. Additionally, the county social worker is required to conduct a direct assessment of the safety of the relative's home.

AB 1391 (Goldsmith), Chapter 944, Statutes of 1997

This legislation amends WIC Section 11461 to require foster care reimbursement rates to be increased by six percent beginning July 1, 1998 for foster family homes and approved relative or non-related guardian homes. This increase does not apply to the amount used to compute the monthly rate paid to licensed foster family agencies for children in certified foster homes. For

each fiscal year thereafter, the current law provision for an increase in basic rates by the percentage change in the California Necessities Index is continued, subject to the availability of funds.

AB 1545 (Committee on Human Services), Chapter 526, Statutes of 1997

This legislation amends WIC Section 17732.1 to allow minor children residing in specialized foster care homes on or after January 1, 1997 to remain in those homes through age 22. The CDSS must notify foster parent applicants during their orientation that the Foster Family Home/Small Family Home Insurance Fund will not cover liability resulting from the care of individuals over 18 years old.

AB 1575 (Committee on Human Services), Chapter 728, Statutes of 1997

This legislation amends WIC Section 11462.06 to expand the current definition of allowable costs for affiliated group home leases to include "any structures, improvements, edifices, land, grounds...owned, leased or rented by the group home." These "allowable costs" are permitted only to the extent that they are allowable under federal law to draw federal financial participation. The CDSS will be amending existing foster care rates regulations to ensure consistency with the provisions of this legislation.

SB 468 (Rainey), Chapter 453, Statutes of 1997

This legislation adds HSC Section 1522.06 to authorize any county child welfare agency, by resolution of the board of supervisors, to secure from county or State law enforcement personnel, a criminal record through the Criminal Law Enforcement Telecommunications System or an automated mobile and fixed location identification system, for the purpose of assessing a relative and all other adults in the relative's home before placing a minor with the relative. Law enforcement is required to cooperate with these requests and to provide information in a timely manner.

SB 916 (Vasconcellos), Chapter 542, Statutes of 1997

This legislation amends HSC Section 1529.2 to require pre-placement foster parent training curricula to include the importance of self-esteem. A course on positive discipline and the importance of self-esteem must be added to such training. This legislation also adds WIC Section 16001.5 to require the CDSS to distribute, on an annual basis, information on the importance of promoting self-esteem with respect to foster children. This information must be provided to the county independent living administrator; each licensed foster family agency, group home and small family home; each county welfare department; each county director of child protective services; each county director of social services; each county foster home services director; the Director of the Community Care Licensing Division of the CDSS; and the Director of the Adoptions Branch of the CDSS.

If you have questions regarding adoptions-related legislation, please contact Joe Murray, Adoptions Policy Bureau, at (916) 323-0467. Questions relating to child abuse prevention legislation should be directed to Dixie Ferguson, Office of Child Abuse Prevention, at (916) 445-2771. Questions regarding statutes affecting child welfare services should be directed to your Child Welfare Services Operations consultant at (916) 445-2832. Questions regarding Foster Care Program legislation should be directed to the Foster Care Policy Bureau at (916) 445-0813.

A handwritten signature in black ink, reading "Marjorie Kelly". The signature is fluid and cursive, with the first name "Marjorie" written in a larger, more prominent script than the last name "Kelly".

MARJORIE KELLY

Deputy Director

Children and Family Services Division

c: County Welfare Directors Association